

# **EXHIBIT E**

**From:** [Fondo, Grant P](#)  
**To:** [Pitman, Michael \(USACAN\)](#); [Smith, Corey \(TAX\)](#); [Bourget, Boris \(TAX\)](#)  
**Cc:** [Strassberg, Richard M](#); [Callaway, David R.](#); [Ewald, Sylvia](#); [Kim, Nicole](#)  
**Subject:** U.S. v. Kepke 3:21 cr 155 JD - Stipulations, Meet and Confer  
**Date:** Monday, October 31, 2022 6:11:25 PM  
**Attachments:** [image001.png](#)

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Boris, Corey and Mike: We are writing in regards to a few matters.

First, as to the three stipulations you have provided, we are amenable to agreeing to the “Stipulation and [Proposed] Order Regarding Redaction and Sealing of Trial Exhibits” and the “FIRST Stipulation.” However, we would like to discuss the “SECOND Stipulation” further before agreeing to it. Are you available on Thursday at 3 p.m. Pacific?

Second, we have reviewed the “Proffer Materials” and log you provided on October 28<sup>th</sup>. We understand the court to have ordered the production of all presentations, communications, memoranda, and notes. (Tr. at 34-36.) But the only items you produced were two presentations and a letter, and you did not list any memoranda or notes in the log that details the withheld/redacted materials. Please let us know if you are going to produce the memoranda and notes.

Third, we have reviewed the undercover transcript designations from your email of October 28<sup>th</sup>. We don’t understand how your transcript designations are consistent with the court’s statements that it would exclude “anything short of” evidence “that he knew that these offshore trusts were intended to evade federal income tax.” (Tr. at 26-27.) We think it would be helpful to confer about this when we discuss the stipulations.

Fourth, per our emails regarding the scheduling of a number of filings/exchanges, it is our understanding that the government would take the lead in drafting a joint pretrial statement and proposed verdict form, and provide a list of transcripts of records to be used at trial by October 27<sup>th</sup>. Please inform us of the status of these items.

Fifth, per the Court’s order for the parties to meet and confer about coconspirator statements and an agreement on admissibility, please identify what statements the government intends to admit as a coconspirator statement.

Finally, as to the “Agent Notes” transmitted on October 28<sup>th</sup>, please confirm that these contain all the witnesses the government intends to call at trial. We also note that document number 6 is illegible. Please provide a legible copy of these agent notes.

Thank you.

**Grant P. Fondo**

Partner



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